

## **Exhibit D**

THE  
**HAVILAND**  
LAW FIRM  
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March 26, 2009

**VIA FACSIMILE AND LEXIS NEXIS**

Jennifer F. Connolly, Esquire  
**THE WEXLER FIRM**  
One North LaSalle Street  
Suite 2000  
Chicago, IL 60602

**Re: *In re Pharmaceutical Industry AWP Litigation***  
**District of Massachusetts; MDL No. 1456**

  
Dear Ms. Connolly,

This will confirm our telephone conversation this afternoon wherein you indicated that, on behalf of the three (3) parties we have subpoenaed, PAL, Community Catalyst and Health Care For All, (1) you are representing their interests with respect to our Subpoenas issued on March 9 and compliance therewith, and (2) none of the three entities intends to comply with the deadlines for the production of documents tomorrow, March 27, 2009 at 9:00a.m. You also confirmed that you will be filing with the Court appropriate Motions to Quash prior to the compliance date and time, in accordance with the Federal Rules.

Finally, you indicated that Ms. Tonacchio does not intend to appear for her deposition scheduled for April 13, 2009, pursuant to our Notice of Deposition issued March 24. You also indicated she would not be attending the Fairness Hearing on April 27. You said you would be filing an appropriate Motion for a Protective Order respecting that deposition in accordance with the Federal Rules and in advance thereof.

Please let me know if I misunderstood our conversation in any respect. Otherwise, I look forward to receiving service of your pleadings so that we may present the matter to the Court for timely resolution.

  
Yours sincerely

Donald E. Haviland, Jr., Esquire

WEXLER WALLACE LLP

Chicago, IL • Sacramento, CA

March 26, 2009

**Via Electronic Mail**

Donald E. Haviland Jr.  
The Haviland Law Firm, LLC  
111 S. Independence Mall East, Suite 1000  
Philadelphia, PA 19106

Re: *In re Pharmaceutical Industry Average Wholesale Price Litigation*  
Case No. 01-cv-12257, MDL No. 1456 (D. Mass.)

Dear Don:

I write in response to your faxed letter of today's date.

Your letter states that "you are representing their interests with respect to our subpoenas . . . ." Because that language is ambiguous, to be clear, Co-Lead Counsel have been retained to represent PAL, Community Catalyst and Health Care for All in connection with the subpoenas you served. We will be filing a motion to quash those subpoenas by the close of business on the date for which compliance is required.

Second, your letter states that Ms. Tonacchio will not be attending the fairness hearing. I stated that I did not believe that she would be. No final decision has been made on that issue.

Finally, your letter does not reflect the entirety of our conversation, and leaves the impression that I called simply to indicate PAL's intention not to comply with the subpoenas and Ms. Tonacchio's intention not to appear for her deposition. Rather, I called to inquire whether, in addition to the bases set forth in your opposition to the Track 2 settlement, you had any other basis to support your service of a notice of deposition on Ms. Tonacchio. You indicated that you wanted to depose her to challenge her "status as a class representative" and stated that someone needed to "test" her adequacy under Fed. R. Civ. P. 23(a)(4). Because I did not agree that you are entitled to such a "test," we agreed to disagree and to have the Court decide the propriety of your Notice.

Of course, you and I had, on March 13th, previously discussed the PAL Subpoenas. During that conversation I also asked you for the authority under which you were serving that discovery. You stated that you had such an authority because your clients are named in the FAMCC. You also suggested that I read your (at the time) upcoming objection to the Track 2 settlement so that I could understand why you were serving that discovery. I have, of course, since read that opposition and do not believe it states a valid reason for seeking discovery from PAL,

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Donald E. Haviland Jr.

March 26, 2009

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Community Catalyst and Health Care for All. Therefore, pending a resolution of their motion to quash, they do not intend to comply with those subpoenas.

I am sure you will let me know if you deem any of this to be inaccurate.

Very truly yours,

/s/

Jennifer Fountain Connolly

JFC/lmv

cc: Co-Lead Counsel (via electronic mail)